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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,797	07/31/2003	Atsuro Eitoku	P/2699-28	1995
2352 7590 05/29/2008 OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403				
EXAMINER				
MARKOFF, ALEXANDER				
ART UNIT		PAPER NUMBER		
1792				
MAIL DATE		DELIVERY MODE		
05/29/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/631,797

**Applicant(s)**

EITOKU, ATSURO

**Examiner**

Alexander Markoff

**Art Unit**

1792

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4-6,8,10,11 and 15-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-6,8,10,11 and 15-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/06)  
Paper No(s)/Mail Date 11/01/07.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed 11/01/07 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

The Japanese Office Action, which is listed on the PTO-1449, has not been considered because neither translation nor a concise explanation of the relevance was provided.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Sato et al (US 2002/0059947).

Sato et al teach an apparatus as claimed. See entire document, especially Figures 1, 3, 4, 5, 6, 7 and the related description and parts [0036] and [0072].

4. Claims 1, 4-6, 8, 10-11 and 15-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Okuda et al et al (US 2002/0035762).

Okuda et al teach a method and apparatus as claimed. See entire document, especially Figures 3, 15-20, 23, 25, 33, 39, 43, 92 and 93 and the related description and parts [0148]-[0159], [0295], [0325], [0523].

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1 and 4-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are indefinite because it is not clear what structure is required by recitation of function or intended use of the dual fluid spray nozzle. The applicants amended the claims to recite "ejecting", "blowing" and "generating" steps in the apparatus claim. It is not clear what structure is required by the recitation of the referenced steps.

***Response to Arguments***

7. Applicant's arguments filed 2/25/08 have been fully considered but they are not persuasive.

The applicants amended the claims and argue that the previously applied rejections are not proper.

The applicants allege that Okuda et al do not teach supplying a jet of deionized water from a dual spray nozzle.

The examiner disagrees.

In contrast to the applicants arguments Okuda et al teach supplying deionized water from a dual spray nozzle. See at least Figure 3, Figure 6 (nozzle 1025), Figures 13 and 15, 16 (nozzle and water line 2015b) and the related description..

The applicants further allege that Okuda et al do not teach simultaneous application of an oxidation liquid and deionized water.

The examiner disagrees.

In contrast to the applicants statement Okuda et al teach simultaneous application of liquids. See at least Figures 12, 29, 45, 90. The treatment liquid and the DI water are simultaneously supplied at the time of the switch between the treatment liquid and water. It is noted that the claims do not require any specific length of the simultaneous supplying.

The applicants argue that Sato et al do not teach a separate oxidation liquid supply structure.

This is not persuasive because the apparatus claims do not require the nozzles be separate. The claims do not require separate supply lines or separate sources for DI water and the oxidation liquid. The method claims were not and are not rejected over Sato et al. Further, Sato et al teach the use of different chemicals including known oxidation liquids, such hydrogen peroxide. See at least part [0036]. Thus, Sato et al teach oxidation liquid supply.

The applicants further argue that Sato et al do not teach simultaneous application of DI water and oxidation liquid.

This is not persuasive because the controller recited by the claims is not recited as programmed to perform any specific function. The claims recite only intended use of the controller (controller for...). Sato et al teach a controller (20), which controls functioning of the apparatus.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Markoff whose telephone number is 571-272-1304. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Alexander Markoff  
Primary Examiner  
Art Unit 1792

/Alexander Markoff/  
Primary Examiner, Art Unit 1792